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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,935	03/08/2004	Robert T. Gunn	514210-2067.1	1338
20999	7590	05/16/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			GRAY, JILL M	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/795,935

Applicant(s)

GUNN, ROBERT T.

Examiner

Jill M. Gray

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-16 and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The rejection of claims 1-3, 5-9, 13, 15-22, and 25-28 under 35 U.S.C. 102(b) as being anticipated by Gunn 5,752,278 and 5,590,420 is moot in view of applicants' amendments.

The rejection of claims 4, 10-12, 14, and 23-24 under 35 U.S.C. 103(a) as being unpatentable over Gunn 5,752,278 and 5,590,420 in view of Kubo et al, 5,614,123 is moot in view of applicants' amendments.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, these claims indicate that the polymeric component can include "plastic copolymers". This language is broad and encompasses all plastics and copolymers formed therefrom, resulting in undue experimentation, first in preparing the multiplicity of plastic copolymers and second in determining which of said "plastics copolymers" actually function as intended by applicants.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, 9-10, 13-15, and 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, claims 1, 9, 10, 13, and 15 are vague and indefinite because the language of "is combined with" does not clearly describe the structural relationship between the polymeric component and the low friction component. This language embraces blended, coextruded, copolymerized, or, the application of one component as a coating onto the other. Accordingly, the metes and bounds for which patent protection is being sought are not clear.

Claim 4 is indefinite for the reasons set forth above. While this claim includes the proportions of each component, the absence of a clear structural relationship of said components, renders this claim indefinite as well.

Claim 14 is indefinite because it is not clear what further comprises the flame retardants, antimicrobials, and anti-static agents. This language can refer to the polymeric component, the low friction component or the fiber per se. Hence, the metes and bounds for which patent protection is being sought are not clear.

In claims 25 and 26, the language of "incorporated overall" is vague.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-9, 13, 15-22, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn 5,752,278 and 5,590,420 (hereinafter referred to collectively as Gunn) as applied previously, in view of "Siloxane Assets and Attributes" Dow Corning information Bulletin, cited to show the state of the art.

Gunn is as set forth previously and teaches the utility of silicone, silicone copolymers, and silicone elastomers as the low friction component but does not specifically teach ultrahigh molecular weight silicon. The Dow Corning information bulletin teaches that ultrahigh molecular weight siloxane are far more effective than conventional lower molecular weight silicones as process aids and surface lubricants and provide greatly enhanced effects. It would have been obvious to the skilled artisan at the time the invention was made to use as the silicone or silicone copolymer taught by Gunn, any silicones known in the art, and more specifically, a ultrahigh molecular weight siloxane with the reasonable expectation of obtaining low friction apparel with enhanced effects.

Claims 4, 10-12, 14, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn 5,752,278 and 5,590,420 (collectively referred to as Gunn), each as applied above to claims 1-3, 5-9, 13, 15-22, and 25-28, in view of Kubo et al, 5,614,123 (Kubo) for reasons of record, and further in view of "Siloxane Assets and Attributes" Dow Corning Information Bulletin, as applied above.

Response to Arguments

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Applicant's arguments with respect to claims 1-2, 4-16, and 18-28 have been considered but are moot in view of the new ground(s) of rejection.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jill M. Gray
Examiner
Art Unit 1774

jmg